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Recent Developments: Fuentes v. State

Matthew Braun

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RECENT DEVELOPMENT

FUENTES V. STATE: A MEDICAL DIAGNOSIS IS NOT REQUIRED TO ESTABLISH THAT AN INDIVIDUAL IS MENTALLY DEFECTIVE; REFERENCING AN INTERVIEW THAT WAS NOT ADMITTED INTO EVIDENCE AT CLOSING DID NOT AMOUNT TO A REVERSIBLE ERROR; EMPLOYMENT RECORDS WERE PROPERLY EXCLUDED FROM EVIDENCE.

By: Matthew Braun

The Court of Appeals of Maryland held that evidence of a medical diagnosis is not required to establish that a victim suffers from a mental disability as defined under Section 3-301 of the Maryland Criminal Law Code Annotated (“section 3-301”). *Fuentes v. State*, 454 Md. 296, 326, 164 A.3d 265, 283 (2017). The court also held that, although the prosecutor acted improperly during closing remarks by referencing an interview that was not admitted into evidence, the error was harmless beyond a reasonable doubt and thus not a reversible error. *Id.* at 327, 164 A.3d at 283. Lastly, the court held that the trial court properly excluded over 300 pages of employment records on relevancy grounds. *Id.*

Miguel Fuentes (“Fuentes”) and Ms. R. were employed at a Marriott Hotel in Prince George’s County and worked together for approximately 14 years. In February of 2012, Fuentes had vaginal intercourse with Ms. R. in a closet at their place of employment. Ms. R. testified, using two dolls to communicate, that Fuentes approached her from behind, put his hand over her mouth and unzipped her pants. Ms. R. then became pregnant with a daughter and a DNA test determined that Fuentes was the father. At trial, the jury heard a wide variety of lay testimony corroborating Ms. R.’s disability. This included testimony about her inability to perform daily tasks by herself, such as cooking or getting to work. Additionally, Ms. R.’s case manager/job coach testified that, due to her multiple disabilities, Ms. R. was incapable of expressing herself.

Fuentes was convicted by jury in the Circuit Court for Prince George’s County of second-degree rape and third-degree sexual offense and was sentenced to twenty years in prison, with all but twelve years suspended. Fuentes moved for judgment of acquittal at the close of evidence which the trial court denied. Fuentes filed a timely appeal to the Court of Special Appeals of Maryland, which affirmed the circuit court in an unreported opinion. The Court of Appeals of Maryland granted certiorari.

Three issues were presented to the Court of Appeals of Maryland. *Fuentes*, 454 Md. at 302, 164 A.3d at 269. The first issue was whether the evidence was legally insufficient, since the State failed to present a medical diagnosis confirming Ms. R.’s mental disorder. *Id.* Second, the court analyzed the prosecutor’s closing statement to determine if informing the

jury that Fuentes admitted to taking advantage of Ms. R. in an interview, not admitted into evidence, was a reversible error. *Id.* Finally, the court looked at whether the trial court erred by excluding Ms. R.'s employment records, since the victim's ability to communicate and understand another's conduct was fundamental in the jury's determination of her mental competency. *Id.*

The court began its analysis by discussing the elements required for a successful conviction of second-degree rape under Section 3-304(a)(2) of the Maryland Criminal Law Code Annotated ("section 3-304(a)(2)") and for third-degree sex offense under Section 3-307(a)(2) of the Maryland Criminal Law Code Annotated ("section "3-307(a)(2)"). *Fuentes*, 454 Md. at 310, 164 A.3d at 273. Both crimes required the State to prove that Fuentes engaged in sexual contact or had vaginal intercourse with Ms. R., that Ms. R. was either mentally defective, incapacitated, or physically helpless rendering her incapable of consenting, and finally, that Fuentes knew, or should have reasonably known, that Ms. R. was either mentally defective, incapacitated, or physically helpless. *Id.* at 310, 164 A.3d at 273-74. It was undisputed that Fuentes had both sexual contact and vaginal intercourse with Ms. R. *Id.* at 311, 164 A.3d at 274. Therefore, the question became whether the evidence presented was sufficient to establish that Ms. R. was mentally defective and, if so, whether Fuentes knew, or reasonably should have known, about her mental disability. *Id.*

Fuentes contended that because the terms "mental disorder" and "mental retardation" are medical diagnoses, the State was required to establish this through a medical professional. *Fuentes*, 454 Md. at 311, 164 A.3d at 274. Because the State failed to establish that Ms. R. was diagnosed with a mental disorder, Fuentes argued that no rational juror could find, beyond a reasonable doubt, that she suffered from a mental disorder rendering her incapable of consent. *Id.* at 307, 164 A.3d at 271. The Court of Appeals disagreed and held that, under section 3-301(b), evidence of a medical diagnosis is not required to establish that an individual is mentally defective. *Id.* at 314, 164 A.3d at 275.

The court reasoned that the jury was able to watch and observe testimony from Ms. R., her mother, sister, and case manager/job coach. *Fuentes*, 454 Md. at 314-15, 164 A.3d at 276. Therefore, the jury was capable of concluding that Ms. R. was suffering from a mental disability and was a member of the vulnerable class of individuals that the statutes were designed to protect. *Id.* The court further stated that the jury reasonably inferred that Fuentes knew, or reasonably should have known, of Ms. R.'s disability from their fourteen-year work relationship. *Id.*

Next, the court used the harmless error analysis to determine whether the prosecutor's improper remarks at closing, referencing an interview that had not been admitted into evidence, were prejudicial to Fuentes and thus a reversible error. *Fuentes*, 454 Md. at 321, 164 A.3d at 280. In the interview, Fuentes allegedly admitted to taking advantage of Ms. R.'s diminished mental capacity. *Id.* at 315, 164 A.3d at 276. In weighing the totality of the evidence against Fuentes, the court found that it was undisputed that he had

engaged in vaginal intercourse with Ms. R. and that he knew, or should have known, that she suffered from a mental defect. *Id.* at 321-22, 164 A.3d at 280. Next, the court looked at the severity of the prosecutor's comments and found that while the comments were improper, they did not require reversal. *Id.* at 323, 164 A.3d at 281. In coming to this conclusion, the Court of Appeals considered what remedial measures the trial court used to cure any potential injustice. *Id.* at 322, 164 A.3d at 280. It noted that the trial court had instructed the jury to rely solely on their own memories of the testimony. *Id.* Therefore, the court ultimately determined that the State's comments did not influence the verdict. *Id.* at 323, 164 A.3d at 281.

Finally, the court decided that the trial court properly excluded Ms. R.'s employment records from evidence because they were not relevant. *Fuentes*, 454 Md. at 326, 164 A.3d at 283. The employment records contained performance evaluations, which Fuentes argued contradicted the State's claim that Mr. R. suffered from a mental defect. *Id.* at 324, 164 A.3d at 281. Under *de novo* review, the court found that Ms. R.'s ability to perform different housekeeping tasks was irrelevant when determining if her mental defect rendered her legally incapable of consenting to sexual activity. *Id.* at 325-26, 164 A.3d at 282-83. Therefore, the court rejected Fuentes' arguments and upheld his conviction. *Id.* at 326-27, 164 A.3d at 283.

In *Fuentes*, the Court of Appeals of Maryland held that a medical diagnosis is not necessary to successfully convict an individual of second-degree rape or third-degree sex offense. It further held that the prosecutor's statements at closing did not prejudice Fuentes and thus was not a reversible error. Finally, the court found that Ms. R.'s employment records were irrelevant in determining whether her mental disability prohibited her from consenting to the sexual activity.

Maryland practitioners should be aware that this ruling demonstrates the court's desire to maintain legislative safeguards protecting individuals suffering from a mental disability. The court reinforces the statutory shield designed to protect this vulnerable class of individuals by refusing to raise the threshold of evidence required to convict someone of certain sexual offenses. However, practitioners should also be mindful of the door the court leaves open for potentially unfair prosecutions in the future. By not requiring a medical diagnosis to establish a party's mental condition and excluding employment records as evidence, the court makes clear its intent to maintain the low level of evidence required to convict an individual of these crimes.